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TAGS: [PGOV](#) [PHUM](#) [PREL](#) [AF](#) [EU](#)
SUBJECT: FOREIGN PRESSURE BACKFIRES ON KAMBAKSH APPEAL

REF: A. KABUL 207
[1](#)B. KABUL 310

[1](#)1. (SBU) SUMMARY. European governments are rethinking their strategy of pressuring President Karzai directly in support of Sayad Parwez Kambakhsh, who is appealing his death sentence for distributing literature found by a local court to be offensive to Islam (ref A). With many observers pessimistic Afghan courts will rule in favor of Kambakhsh against the will of conservative religious leaders, human rights advocates are looking for more discreet ways to communicate concerns to GIROA officials, a method we have employed from the outset (ref B). Karzai will be reluctant to seem excessively attentive to foreigners in the long run-up to next year's elections. We will continue to privately register our reservations about the constitutionality of the case with Afghan officials.

A Lower Profile Approach

[1](#)2. (SBU) Karzai is unlikely to intervene in a trial many see as politicized in favor of religious conservatives, who continue to agitate for swift and deadly justice for the accused university student. At the most recent appeals court hearing June 15 in Kabul, the judge reportedly played the role of an aggressive prosecutor and waved off the defense attorney's attempts to explain technology concepts at the heart of the case, such as internet downloads and email. The trial is on hold while witnesses are brought from Balkh province to testify in the capital, but could finish by the end of summer. Presuming a confirmation of the original guilty verdict, the Supreme Court would then review the case.

[1](#)3. (SBU) European diplomats in Kabul say Karzai had made promises to their capitals leading up to the June Paris Conference to ensure a fair trial and protections for freedom of expression and the media. However, as demands from Europe, where Kambakhsh is a cause celebre, increased, Karzai became annoyed at the high-pressure, public lobbying. Officials at the Afghan Independent Human Rights Commission (AIHRC) say members of the national Ulema Council precipitated a backlash against perceived outside meddling in a domestic issue and Karzai tuned out his foreign interlocutors. Ulema Council members have told him, "If you

don't kill Kambakhsh, we will."

¶4. (SBU) At a recent AIHRC meeting with international human rights watchers, European and UNAMA representatives decided to take a lower profile role in their advocacy for Kambakhsh, relying less on high-profile statements from officials and celebrities and more on supporting the work of Afghan human rights NGOs. With subtle support from their international counterparts, Afghan chapters of the International Federation of Journalists and International PEN have begun campaigns using the Kambakhsh trial to highlight issues of free expression and free media for domestic audiences. Journalists and human rights activists presented petitions in support of Kambakhsh to provincial leaders July 8 in at least 15 provinces, a not-inconsequential effort given the death threats outspoken Kambakhsh supporters have received from religious extremists.

The Death Warrant Isn't Signed Yet

¶5. (SBU) The Europeans' decision to tone down their public advocacy for Kambakhsh's release may be more productive in promoting rule of law and good relations with the West. Europeans had put themselves in a difficult position -- in general supporting the independence of Afghan courts while lobbying Karzai to interfere in a case when they disagreed with the likely outcome. Religious conservatives here exploited the contradiction to convince Karzai not to intervene. A quieter approach focusing on constitutionality, as we have used, may allow Afghan courts, however flawed, to

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reach their own conclusions and while respecting the judicial process.

¶6. (SBU) Although the current appeals court trial may end with a confirmation of the guilty verdict and death penalty, this process is far from over. Indications of irregularities in the trials open the door for the Supreme Court or Karzai himself, who is ultimately mindful of international opinion, to use legal technicalities or a more moderate interpretation of sharia law to bring the case to a conclusion in line with international standards and the scope of the Afghan Constitution.

WOOD